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to enhance Vaughn's mandatory minimum sentence to life imprisonment do not qualify under *Simmons* as predicate offenses for such an enhancement.

Based on the government's concession I will grant Vaughn's § 2255 motion as to his claim under *Simmons* that he should be resentenced. I will dismiss Vaughn's remaining § 2255 claims without prejudice to Vaughn's refiling these claims in a later § 2255 motion following resentencing, if necessary. *See, e.g., United States v. Killian*, 22 F. App'x 300, 301 (4th Cir. 2001) (unpublished).

A separate Final Order will be entered herewith.

DATED: May 23, 2012

/s/ James P. Jones
United States District Judge